

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-1(b)	
FOX ROTHSCHILD LLP 49 Market St. Morristown, NJ 07960 Joseph J. DiPasquale, Esq. Michael R. Herz, Esq. Joseph A. Caneco, Esq. jdipasquale@foxrothschild.com mherz@foxrothschild.com jcaneco@foxrothschild.com Telephone: (973) 992-4800 Facsimile: (973) 992-9125 <i>Proposed Counsel to the Debtor And Debtor in Possession</i>	
In re:	Chapter 11 (Subchapter V)
ASSUNCAO BROS., INC.,	Case No. 22-16159-CMG
Debtor.	Judge: Hon. Christine M. Gravelle

**APPLICATION FOR ENTRY OF A CONSENT ORDER
REGARDING NGM INSURANCE COMPANY'S RULE 2004 SUBPOENA**

Assuncao Bros., Inc. (the “Debtor”), the debtor and debtor-in-possession in the above-captioned chapter 11, subchapter v case (the “Subchapter V Case”), by and through its proposed counsel, Fox Rothschild LLP, hereby requests the entry of a consent order between the Debtor and NGM Insurance Company (“NGM”) regarding the Rule 2004 Subpoena (defined below) issued by IGM, and respectfully states:

1. On August 3, 2022 (the “Petition Date”), the Debtor commenced this Subchapter V Case by filing a voluntary petition for relief under chapter 11, subchapter v, of the United States Bankruptcy Code. The Debtor continues to operate its business and manage its property as a debtor-in-possession in accordance with section 1184 of the Bankruptcy Code.

2. Prior to the Petition Date, NGM executed certain performance and payment bonds (“Bonds”) on behalf of the Debtor, as principal, including bonds for certain public owner obligees/counterparties (the “Bonded Contract Owners”),¹ arising out of certain public work contracts which Bonds relate to, and under which such contracts ABI was performing (“Bonded Contracts”) as of the Petition Date.

3. On August 12, 2022, NGM issued to the Debtor a subpoena (the “Rule 2004 Subpoena”) pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure. The Rule 2004 Subpoena requested that the Debtor produce various documents by September 2, 2022.

4. The Debtor and NGM have agreed to the proposed consent order submitted herewith to resolve the Rule 2004 Subpoena. The terms of the consent order include: (i) extending the time for the Debtor to respond to the Rule 2004 Subpoena to September 23, 2022, which date may be further extended by agreement by the parties without further order of the Court; (ii) the Debtor’s agreement to provide NGM with access to the Debtor’s offices so that NGM may obtain information and documentation pertaining to the Bonded Contracts, and to make one or two of its

¹ Bonded Contract Owners and Bonded Contracts include, but are not necessarily limited to: 1) **the City of Jersey City, New Jersey** (Dr. Martin Luther King, Jr. Intersection Safety Improvements – Replacing Existing Curb Ramps with new ADA –compliant Concrete Ramps, Concrete Sidewalks & Curb Work, Providing Pedestrian Signal Upgrades, Resetting Castings [project includes 8 intersections along Dr. Martin Luther King Drive]) and (Replacement of County Bridge Contract # 20002); 2) **County of Somerset, New Jersey** (Maintenance Contract Repairs of Various Park Commission Structures) **and** (Replacement of County Bridge Belle Mead-Blawenburg Rd (CR 601) over Back Brook, Township of Montgomery, Somerset County, Replace Bridge, Contract No. 19008); 3) **Township of Raritan** (Sunny Hills Section II Road Reconstruction Improvements, Raritan Township); 4) **Essex County, New Jersey** (Park Avenue – Nine Traffic Signals and Road Improvements in Cities of Orange, East Orange and Newark, New Jersey) **and** (Provide Nine Traffic Signals and Roadway Improvements, Countywide Signals and Roadway Improvements); 5) **Township of Springfield** (Caldwell Place Culvert Repair); 6) **County of Ocean, New Jersey** (Construction of Traffic Signal at the Intersection of Prospect Street & Massachusetts Avenue – Township of Lakewood); 7) **Township of Monroe, New Jersey** (Intersection Improvements Spotswood, Gravel Hill & Machaponix/Pergola Avenue Road Improvements); 8) **County of Hunterdon, New Jersey** (Resurfacing & Drainage Improvements for County Route 616, Road Improvements in the Township of Franklin, County of Hunterdon); 9) **Passaic County, New Jersey** (Replacement of the Kingsland Road Bridge over the Third River, within the City of Clifton); 10) **County of Middlesex, New Jersey** (Improvements to Intersection of Forsgate & Rossmoor, Monroe Township); 11) **Township of Piscataway, New Jersey** (Drake Lane Improvements Phase II); 12) **County of Monmouth, New Jersey** (Replacement of Bridge U-15 on Breza Road over Doctor’s Creek, Upper Freehold and Allentown); and 13) **County of Hudson, New Jersey** (Improvement to JFK Boulevard from Pavonia Road) . NGM also issued a fringe benefits bond no. S-324394.

representatives available for deposition by NGM; (iii) procedures for the treatment and protection of Confidential Discovery Materials (as defined in the consent order); and (iv) the preservation of NGM's rights to receive complete responses to the Rule 2004 Subpoena and likewise, the Debtor's right to file a motion to quash.

5. Based on the foregoing, it is respectfully requested that the proposed consent order submitted herewith, the form of which has been agreed to by or on behalf of each of the Debtor and NGM, be entered, and that the Court grant such other and further relief as it deems just and proper.

Respectfully submitted,

FOX ROTHSCHILD LLP
Proposed Counsel for the Debtor

By: /s/ Michael R. Herz
Michael R. Herz, Esq.

Dated: September 16, 2022